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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,997	02/05/2001	Aaron Naparstek	11929/1	4927
26646	7590	01/11/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			NAJARIAN, LENA	
			ART UNIT	PAPER NUMBER
			3626	
DATE MAILED: 01/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/776,997

Applicant(s)

NAPARSTEK ET AL.

Examiner

Lena Najarian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20010205</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Fig. 1, item 45, Fig. 2, item 58, and Fig. 6, items 322a-c & 326g-i. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-8 and 13-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Douglas et al. (6,039,688).

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(A) Referring to claim 1, Douglas discloses a method of delivering personalized health interventions to a client over a computer network comprising (col. 2, lines 9-14 of Douglas; the Examiner interprets “therapeutic behavior modification program” to be a form of “health interventions”):

providing a user interface to a client over the computer network;

receiving information input to the user interface by the client through the computer network related to health issues (Fig. 59, item 518 and col. 21, lines 19-21 of Douglas; the Examiner interprets “Internet” to be a form of “computer network”);

determining personalized health interventions for the client based on the received information (col. 2, lines 9-22 of Douglas); and

delivering at least one of audio and visual health interventions to the client for display on the user interface over the computer network (col. 2, lines 48-52 of Douglas).

(B) Referring to claim 2, Douglas discloses matching the health issue information provided by the client with health intervention criteria stored in a database (col. 15, lines 25-32 of Douglas).

(C) Referring to claim 3, Douglas discloses generating an interactive schedule of daily health interventions for the client; and

sending the schedule to the client over the network;

wherein the schedule includes several links to specific health interventions and the client can view the schedule and access the interventions through the user interface (col. 8, lines 37-62 of Douglas).

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(D) Referring to claim 4, Douglas discloses enabling the client to set reminders for the health interventions, the reminders being audio or visual alerts (col. 8, lines 63-65 of Douglas).

(E) Referring to claim 5, Douglas discloses wherein the user interface provides navigation tools allowing a client to access various categories of health information (col. 2, lines 48-64 of Douglas).

(F) Referring to claim 6, Douglas discloses wherein the categories of health information include at least health issues (col. 16, lines 45-51 of Douglas; the Examiner interprets "chronic cardiac condition" to be a form of "health issues", therapies (col. 16, lines 7-20 of Douglas; the Examiner interprets "stress management strategies" to be a form of "therapies") and practitioners (col. 5, lines 33-38 & col. 6, lines 2-6 of Douglas; the Examiner interprets "case advisor" to be a form of "practitioners").

(G) Referring to claim 7, Douglas discloses wherein the information received from the client related to health issues includes a significance rating number for each of a list of health issues, the rating number indicating the significance of the particular health issue to the client (col. 7, lines 15-22 & Fig. 5, item 51 of Douglas; the Examiner interprets "intensity levels" to be a form of "rating number").

(H) Referring to claim 8, Douglas discloses quantifying an appropriateness of using each particular intervention to treat each particular health issue as a correlation value; selecting health issues having a significance rating above a first threshold; determining interventions having a correlation value above a second threshold with respect to any of the selected health issues; and entering the determined interventions in the daily

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schedule (col. 7, lines 15-37 and col. 8, lines 42-51 of Douglas; the Examiner interprets “diet, exercise, stress management” to be forms of “health issue”).

(I) Referring to claim 13, Douglas discloses maintaining a database of health and client information through a back end interface (col. 22, lines 17-25 of Douglas).

(J) Referring to claim 14, Douglas discloses adding interventions, therapies, health issues and practitioners to the database to expand health services (col. 7, lines 8-14 of Douglas; the Examiner interprets “design a new program” to be a form of “adding”); and modifying client information and health information in the database (col. 6, lines 58-62 & col. 9, line 65 – col. 10, line 8 of Douglas).

(K) Referring to claim 15, Douglas discloses storing audio and visual health interventions in a media file server; and

linking interventions included in the database to a corresponding media file in the media file server (col. 12, lines 12-22 of Douglas).

(L) Referring to claim 16, Douglas discloses wherein the generated schedule is integrated into a local scheduling application at a client computer (col. 8, lines 37-62 of Douglas).

(M) Referring to claim 17, Douglas discloses providing an email interface, the interface allowing a client to send a health intervention accessible through the user interface to a third party in an email message (col. 13, lines 41-58 of Douglas).

(N) Referring to claim 18, Douglas discloses delivering general daily health advice and recommendations over the computer network to the user interface (col. 2, lines 53-59 and col. 8, lines 56-65 of Douglas).

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(O) Referring to claim 19, Douglas discloses a system for delivering personalized health interventions to a client over a computer network, comprising (Fig. 59 & col. 2, lines 9-14 of Douglas; the Examiner interprets “therapeutic behavior modification program” to be a form of “health interventions”):

a Web server adapted to provide a user interface to a client over the computer network, and to receive information from the client through the computer network related to health issues (col. 2, lines 9-22 and col. 21, lines 19-25 of Douglas);

a database arrangement including process logic, the database arrangement storing health information resources and personal information received from the client (col. 21, lines 42-53 of Douglas); and

an audio/visual module (col. 15, lines 40-45 of Douglas);

wherein the process logic determines appropriate personalized health interventions for the client based on the received information and the health information resources stored in the database arrangement, the health interventions being delivered to the client over the computer network via the audio/visual module (col. 2, lines 9-22 & 48-64 of Douglas; the Examiner interprets “access to pertinent medical information” to be a form of “health information resources”).

(P) Referring to claim 20, Douglas discloses wherein the Web server generates an interactive schedule of daily health interventions for the client and sends the schedule to the client over the computer network, the schedule including a plurality of health interventions viewable and accessible by the client (col. 8, lines 37-62 of Douglas).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas et al. (6,039,688) as applied to claims 1, 3, and 7 above, and further in view of Silver (6,269,339).

(A) Referring to claim 9, Douglas discloses integrating factors in determination of health interventions wherein the factors include favored therapy types, client gender, and client age (Fig. 5 and col. 7, lines 15-30 of Douglas).

Douglas does not disclose wherein the factors include client pregnancy status.

Silver discloses wherein the factors include client pregnancy status (col. 9, lines 32-35 of Silver).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Silver within Douglas. The motivation for doing so would have been to assess a user's relative wellness for a set of relative risk factors (col. 9, lines 42-43 of Silver).

(B) Referring to claim 10, Douglas discloses determining whether the client is registered (Fig. 38 & col. 17, lines 25-31 of Douglas; the Examiner interprets "authentication" to be a form of "determining whether the client is registered").

Douglas does not disclose whether the client is associated with a corporation.



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Silver discloses whether the client is associated with a corporation (col. 5, lines 27-38 & col. 8, lines 46-52 of Silver).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Silver within Douglas. The motivation for doing so would have been for a corporation to support a range of activities to improve employee wellness (col. 5, lines 27-28 of Silver).

(C) Referring to claim 11, Douglas discloses preventing further access to the user interface if the client is not registered (col. 17, lines 25-31 of Douglas).

Douglas does not disclose incorporating rules for providing interventions and services in accordance with corporation guidelines.

Silver discloses incorporating rules for providing interventions and services in accordance with corporation guidelines (col. 5, line 61 – col. 6, line 8 of Silver).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Silver within Douglas. The motivation for doing so would have been to determine suitable courses of action (col. 6, lines 6-8 of Silver).

(D) Referring to claim 12, Douglas discloses wherein the rules include restrictions on types of intervention that may be delivered, times of day during which interventions can be delivered, and promotions of particular interventions (col. 5, lines 45-64, col. 8, lines 43-51, and col. 16, lines 35-59 of Douglas; the Examiner interprets “links to other reputable Internet sites” to be a form of “promotions”).

### ***Conclusion***

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a method for prevention/rehabilitation customization (US-2001/0050088 A1).


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is (703) 305-0260. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN

In  
1-7-05

  
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